SERVED: June 28, 1994

NTSB Order No. EA-4204

UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD at its office in Washington, D.C. on the 22nd day of June, 1994

DAVID R. HINSON, Administrator, Federal Aviation Administration,

Complainant,

v.

DOUGLAS P. GILLILAND,

Respondent.

Docket SE-12706

ORDER DENYING STAY

Respondent has requested a stay of NTSB Order No. EA-4149 (served April 28, 1994), pending disposition of a petition for review of that order filed in the U.S. Court of Appeals for the Eighth Circuit. The Administrator opposes the request.

The Board has traditionally declined to grant stays of its orders pending judicial review in cases involving certificate revocation, because revocation is based upon a conclusion that the airman lacks the qualifications required of a certificate

¹ In Order No. EA-4149, we affirmed the revocation of respondent's pilot certificate pursuant to 14 C.F.R. 61.15, based on his conviction for conspiracy to distribute cocaine, interstate travel in aid of racketeering, and failure to file a currency transaction report.

holder. See Administrator v. Potanko, NTSB Order No. EA-3990 (1993), and cases cited therein; Administrator v. Green, NTSB Order No. EA-3375 (1991); and Administrator v. Balestra, NTSB Order No. EA-3065 (1990). Respondent's assertion in his motion that no question was raised regarding his qualifications is incorrect. Cf. Administrator v. Johnson, NTSB Order No. EA-3929 (1993) (since lack of qualifications must be shown in order to support revocation, an order seeking revocation inherently alleges a lack of qualification).

Further, the conclusion that respondent lacks the requisite qualifications is no less valid because the order of revocation in this case was affirmed on a motion for summary judgment, rather than after an evidentiary hearing on the merits. motion was supported by a certified copy of respondent's conviction and underlying indictment, which established that on at least two occasions respondent piloted an aircraft in furtherance of a conspiracy to transport and distribute cocaine and sums of money resulting from its sale, matters which unquestionably warrant revocation of respondent's pilot certificate. Thus, unlike Administrator v. Coombs, NTSB Order No. EA-3750 (1992), a case where we granted a stay of an order of revocation where the respondent's appeal from the order was dismissed on a procedural ground, in this case there has been adjudicatory corroboration of the Administrator's allegations and the conclusion that respondent lacks qualifications.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's motion for stay is denied.

HALL, Acting Chairman, LAUBER, HAMMERSCHMIDT, and VOGT, Members of the Board, concurred in the above order.